IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.3631 OF 2004

Ganesh Barku Tare, .. Applicant.

Vs

State of Maharashtra, .. Respondent.

Mr A.P.Mundargi i/b Mr Indrajeet Joshi for the applicant.

Mr V.B.Konde-Deshmukh, APP for the respondent.

CORAM : D.B.BHOSALE,J.

DATE : 31st AUGUST, 2004.

PC:

1. Heard the learned counsel for the parties.

2. This application is filed by the applicant for being released on bail in C.R.No.I-129/2004 registered at Narpoli police station under section 302 read with 34 of I.P.C. The occurrence in the instant case took place on 6.5.2004 at 10 am in which the applicant and three others are alleged to have committed murder of deceased Raghunath Bhoir. In so far as the present applicant is concerned, it is alleged that he assaulted the deceased with a bamboo-stick and the blow inflicted by him ultimately proved to be fatal. Mr Mundargi, learned counsel for the applicant, submitted that even if all the allegations against the accused persons are taken as

true, they cannot be said to have had gone to the scene of occurrence with an intention to kill the deceased. None of the accused including the applicant were armed with any weapon. Even the applicant, according to Mr Mundargi, inflicted only one blow on the head of the deceased though he could have dealt more blows. I have perused the FIR. It is clear that the accused were not armed with any weapon. According to the eye-witnesses, in the scuffle the applicant lifted the bamboo stick lying in the compound and gave only one blow on the deceased. In view of this, Mr Mundanrgi, submits that in any case the offence would not fall under section 302. Though I find merit in the submission of Mr Mundargi, I would not like to express any opinion as to whether or not the offence would fall under section 302 at this stage. Prima facie, it is clear from the facts of the case that the alleged offence of murder was committed without premeditation. Admittedly, other accused have already been released on bail. Keeping that in view and considering overall facts and circumstances of the case and that it is a case of a single blow, I am inclined to enlarge the applicant on bail.

3. The applicant is directed to be enlarged on bail on his furnishing a personal bond of Rs.15,000/- with one

or two sureties of the like amount to the satisfaction of the trial Court subject to the condition that he shall report the concerned police station on every Saturday between 6 pm and 7 pm until the conclusion of his trial.

. While allowing this application, I shall not be understood to have expressed any opinion on merits of the case. The Sessions Court shall decide the case uninfluenced by the observations made in this order.

(D.B.Bhosale, J.)